

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

PERRY LEE FLEMING,

Petitioner,

v.

WARDEN MOSLEY and THE
ATTORNEY GENERAL OF THE
STATE OF ALABAMA,

Respondents.

CIVIL ACTION NO. 00-AR-2115-NE

EW
ENTERED
OCT 30 2001

MEMORANDUM OF OPINION

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and the objections of the petitioner and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accord with the recommendation, this petition for writ of habeas corpus is due to be dismissed without prejudice to afford the petitioner an opportunity to seek the approval of the Eleventh Circuit Court of Appeals to file a successive petition. To the extent that the petitioner has raised additional matters in his objection to the magistrate judge's report and recommendation, the court finds that they either are without merit or are matters due to be addressed by the Court of Appeals in determining whether to grant the petitioner permission to file a successive application for relief. An appropriate order will be entered.

DONE, this 30th day of October, 2001.

William M. Ackers, Jr.
WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

14